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HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720			AGDEPPA, HECTOR A	

ART UNIT PAPER NUMBER

2642

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/901,749	RODENBUSCH ET AL.	
	Examiner	Art Unit	
	Hector A. Agdeppa	2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-47 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-47 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1 – 7, 8 – 16, 21 – 24, 26, 27, 29 – 35, and 38 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 5,963,635 to Szlam et al. in view of applicant's admitted prior art.

Regarding claim 1, Szlam et al. discloses a "Method and apparatus for providing result oriented customer service". The invention relates to automated customer service systems and, more particularly, is an automated customer service system, which accommodates both inbound and outbound communications (i.e. a system for distributing outbound telephone calls), which uses a variety of media, and which has a

user-programmable strategy, so as to provide result-oriented customer service [see Szlam et al. col. 1, line 10]. With reference to Szlam et al. Fig. 1, the invention comprises agent workstations (12) (i.e. provide a plurality of telephone calls to one or more agent s), a modem server (17), a facsimile server (18), a switch (13), and a system controller (11) (i.e. distribution module), which is coupled to the other devices via network (14) (i.e. interfaced with the plurality of dialing devices). According to the invention, the controller (11) obtains one or more calling lists (i.e. including a plurality of pools) from a host (10), each calling list containing call records (i.e. the distribution module operable to place the call records into the pools) [see Szlam et al. col. 9, line 25]. Each calling list is for a different campaign and the call records contained therein are for processing by agent workstations (12), modem server (17) and facsimile server (18) (i.e. operable to receive a plurality of call records). The controller (11) establishes several queues for each campaign (i.e. plurality of queues) [see Szlam et al. col. 9, line 35]. One of these queues is a 'to-be-called' queue, which initially will contain a list of all the records associated with a specific campaign, as opposed to global list of all the records (i.e. transfer less than all of the call records from the pools to the queues). Other queues, such as the fax queue and modem queue, contain lists of numbers to which specific types of messages are to be sent (i.e. facsimile messages and electronic mail messages) [see Szlam et al. col. 9, line 40].

What Szlam et al. does not teach is a plurality of dialing devices as the above-mentioned agents are connected to/provided with calls from, one switch (13).

However, as applicant admits on page 3, lines 16 – 23, of the specification for the present invention, it is common and well known in the prior art to have a plurality of dialing devices in a call center.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have implemented more than one switch or dialing device inasmuch as adding more dialing devices does not alter the functionality of Szlam et al. at issue, but merely expands capacity.

Regarding claim 2, further note that according to the invention of Szlam et al., the controller (11) (i.e. distribution module) obtains customer records (i.e. call records) from the host (10) and controls the placement (i.e. controls the coordination) of outbound calls (i.e. dialing devices) [see Szlam et al. col. 8, line 30].

Regarding claim 3, further note that according to the invention of Szlam et al., when the end of a queue has been reached at step 655 (i.e. when the dialing devices have called the call records initially transferred to the queues) new call records are obtained at step 402 (i.e. the distribution module transfers additional call records from the pools to the queues) [see Szlam et al. col. 21, line 60; also Fig. 6B].

Regarding claim 4, as shown above, Szlam et al. teaches the system of claim 1. However, this reference does not teach the distribution module routes the queues over TCP/IP to the dialing devices.

Nevertheless, it would have been obvious to one of ordinary skill in the art at the time the invention was made to specify that the network (14) that couples the distribution module to the agent workstation, fax server and modem server (i. e. dialing

devices), should be a TCP/IP routed network, since such networks are well-known and readily procurable.

Similarly, regarding claim 6, simply specifying that the distribution module comprises a TCP/IP compatible component is not allowable over the prior art.

Regarding claim 5, it would have been obvious to specify network (14) as an ATM routed network.

Regarding claim 7, further note that the use of predictive dialers is well-known in the art. Applicant is directed to the pertinent prior art listed below, which is representative of an expansive body of prior art that discloses the use of predictive dialers.

Regarding claims 8 and 9, further note that according to the invention of Szwam et al., controller (11) (i.e. distribution module) logs the result of each call (i.e. call attempt result) into the appropriate queue. After the campaign has placed a sufficient number of calls to obtain meaningful analysis, controller (11) inspects (i.e. monitors) the queues to determine the degree of success of the campaign (i.e. to determine a successful or unsuccessful call attempt result), where as shown before, the agent workstations (12), modem server (17) and facsimile server (18) (i.e. dialing devices) are responsible for executing calls (i.e. telephone calls) according to the call records on the various queues. Thus, inherently, the process of inspecting the queues comprises transferring the results of each call (i.e. the call attempt results) from the agent workstations (12), modem server (17) and facsimile server (18) (i.e. dialing devices); that is, the

distribution module transfers from the dialing devices the call attempt results [see Szlam et al. col. 9, line 65].

Regarding claim 10, further note that according to the invention of Szlam et al., controller (11) (i.e. distribution module) assigns agent resources according to the number of calls that remain to be made in each campaign, among other considerations (i.e. the distribution module monitors the number of call records in the queues remaining to be called by the dialing devices) [see Szlam et al. col.10, line 55].

Regarding claim 11, further note that the invention of Szlam et al. comprises a processing strategy (i.e. plurality of selection rules) that involves defining events, and then defining the actions that should be taken when an event occurs [see Szlam et al. col. 12, line 15]. An event may be, the time of day, the hit rate, the list penetration depth, the disposition of a call, etc. An action may be to start, end or suspend a campaign (i.e. control how the pools transfer call records to the queues), to reassign agents from one campaign to another, to start or end callbacks from selected queues, etc.

Regarding claim 12, further note that according to the invention of Szlam et al., the actions defined by the processing strategy (i.e. plurality selection rules) may include setting the priority of a queue (i.e. the selection rules comprise priority rules) [see Szlam et al. col. 13, line 35].

Regarding claim 13, recall that according to the invention of Szlam et al., the events defined in the processing strategy (i.e. plurality selection rules) may include statistics such as the hit rate or penetration depth (i.e. selection rules comprise percentage rules).

Regarding claim 14, recall that according to the invention of Szlam et al., an event such as a hit rate (i.e. percentage rules) is matched (i.e. combination) with a corresponding action such as setting a queue priority (i.e. priority rules); that is, the selection rules comprise a combination of the percentage rules and the priority rules).

Regarding claim 15, further note that according to the invention of Szlam et al., an administrator may specify a campaign strategy and control the operation of the campaign. The administrator may exercise control through a workstation (12) (i.e. user interface), which is coupled to controller (11) (i. e. distribution module) via network (14) (i. e. a user interface

operable to allow a user to control the functionality of the distribution module) [see Szlam et al. col. 9, line 5].

Regarding claim 16, browser based, online interfaces are well-known in the art for providing user interfaces.

Regarding claim 21, recall that according to the invention of Szlam et al., the controller (11) (i.e. distribution module) establishes several queues for each campaign (i.e. associates the queues with a campaign), wherein the queues contain call records to be called by agent workstations (12), modem server (17) and facsimile server (18) (i.e. dialing devices).

Regarding claim 22, further note that according to the invention of Szlam et al., dialing may be started using the first numbers (i.e. call records), while the remaining numbers in the list (i.e. pools) are being sorted (i.e. distribution module dynamically modifies the order of the call records within the pools without stopping the campaign) [see Szlam et

al. col. 14, line 50]. The system continues placing calls, even while the sort procedure is in process [see Szlam et al. col. 15, line 15].

Regarding claim 23, further note that according to the invention of Szlam et al., the controller (11) (i.e. distribution module) can immediately (i.e. dynamically) update (i.e. changes the composition of the) a sensitivity profile (i.e. call records within the pools) on behalf of a customer during the course of a campaign (i.e. without stopping the campaign) [see Szlam et al. col. 19, line 50].

Regarding claim 24, further note that according to the invention of Szlam et al., a campaign (i.e. pool) strategy, which is to be run by controller (11) (i.e. distribution module), may be scheduled to run at specified times (i.e. scheduling module interfaced with the distribution module the scheduling module operable to schedule call records in the pools instead of the dialing devices) [see Szlam et al. col. 13, line 40].

Regarding claim 26, further note that according to the invention of Szlam et al., if calling list A (i.e. a first pool) has reached or exceeded a penetration depth of 90% (i.e. when the call records in the first pool are depleted), then list C (i.e. a second pool) is started (i.e. the distribution module transfers call records to the queue from a first pool and transfers call records to the queue from a second pool) [see Szlam et al. col. 13, line 55].

Regarding claim 27, the limitations read broader than claim 26 and therefore, claim 27 is rejected under the same rationale.

Regarding claim 29, the subject matter claimed is similar in scope to claim 1 and is therefore, rejected under the same rationale.

Regarding claim 30, further note that according to the system of Szlam et al., the selection and order of the records (i.e. call records) to be included in a calling list (i.e. pool) are based on business strategy designed to reach a select type of customer (i.e. the pools comprise a specific and ordered group of call records) [see Szlam et al. col. 2, line 45].

Regarding claim 31, further note that the system of Szlam et al. comprises a fax (i.e. specified dialing device) queue containing lists of numbers to which a facsimile message is to

be sent, as well as a modem (i.e. specified dialing device) queue containing lists of numbers to which an electronic mail message is to be sent (i.e. assigning a queue to a specified dialing device) [see Szlam et al. col. 9, line 40].

Regarding claim 32, recall that according to the system of Szlam et al., initially, all the records in a calling list (i.e. one pool) are transferred to a single to-be-called queue (i.e. one queue); that is, transferring call records from one pool to one queue.

Regarding claim 33, as shown above, Szlam et al. teaches the method of claim 29. Furthermore, transferring call records from the pools to the queue comprises transferring callall records from more than one pool to one queue, is simply the process of multiplexing data (i.e. call records) from different sources (i.e. more than one pool) onto the same transmission medium (i.e. one queue). This concept is well-known in the art, and therefore, unpatentable. It should be noted that such features are merely design choices, and therefore, not allowable over the prior art.

Regarding claim 34, recall that according to the system of Szlam et al., subsequently, the records contained in the calling list (i.e. one pool) to-be-called queue are processed into a plurality (i.e. more than one) of queues specific to each dialing device (e.g. fax, modem, voice). That is, transferring call records from one pool to more than one queue.

Regarding claim 35, see Szlam et al. as applied above to claim 21.

Regarding claim 38, further note that according to the system of Szlam et al., if the goal of a provider is to obtain a certain number of completed calls (i.e. transferring a set number of call records) then the campaign will be terminated (i.e. which allows for a set amount of calling for each queue) [see Szlam et al. col. 10, line 20].

Regarding claim 39, see Szlam et al. as applied to claims 9 and 10 with regard to uploading a plurality of call attempt results from the dialing devices to the distribution module and determining the number of call records remaining to be called in the queues, respectively. Also note that the system of Szlam et al. monitors hit (i.e. depletion) rate (i.e. depletion rate at which the dialing devices call the called records in the queues) [see Szlam et al. col. 12, line35].

Regarding claim 40, further note that according to the system of Szlam et al., when the penetration of list (i.e. pool) A has reached 90% (i.e. based upon the number of call records remaining to be called), list C may be started (i.e. additional call records are needed in the queue) [see Szlam et al. col. 12, line 55]. Furthermore, based on the hit rate (i.e. depletion rate), list D may be started [see Szlam et al. col. 12, line 60].

Regarding claim 41, it is inherent from the foregoing that when starting a new list (i.e. pool), the call records associated with that list must be transferred to the queues (i.e. transferring additional call records from the pools to the queues).

Regarding claim 42, see Szlam et al. as applied above to claim 20.

Regarding claim 43, see Szlam et al. as applied above to claim 11.

2. Claims 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al. in view of US patent 5,297,195 to Thorne et al.

Regarding claim 20, as shown above, Szlam et al. does teach the system of claim 1.

However, Szlam et al. does not teach the distribution module redistributes call records to the pools based upon the unsuccessful call attempt results.

Nevertheless, Thorne et al. discloses a "Method and apparatus for automatic telephone scheduling system". The invention pertains to the automated scheduling and placement of numerous telephone calls [see Thorne et al. col. 1, line 5]. According to the method of Thorne et al., a data server (22) (i.e. distribution module), which is responsible for managing a campaign, obtains account records, which have yet to be processed for the campaign, from memory (78A) (i.e. pool) [see Thorne et al. col. 9, lines 30-68]. Upon obtaining the next record for processing for the designated campaign, the data server (22) transfers the entire account record (162) to the dial server (24) (i.e. dialing device). The dial server (24) proceeds to attempt the call, and if

the call is unanswered (i.e. based upon the unsuccessful call attempt results), the dial server (24) generates a notification message for the data server (22), whereupon, the data server (22) stores (i.e. redistributes) the record (i.e. the call records) in memory (78A) so that the record will again be accessed at a subsequent time in connection with its associated campaign.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system taught by Szlam et al. such that the call records are redistributed from the queues back to the calling lists (i.e. Pools), since such a measure would ensure that the status of previous call attempts would be available to agents handling a particular call record for the first time.

Regarding claim 25, further note that according to the invention of Szlam et al. in view of Thorne et al., the records (i.e. call records) for a plurality of campaigns (i.e. Pools) may be distributed (i.e. operable to transfer and provide) throughout a plurality of data servers (22,62) (i.e. distribution modules) which are coupled to dial servers (24,64) (i.e. dialing devices). Furthermore, it is implicit that such a configuration provides redundancy.

3. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al. in view of US patent 6,198,814 to Gill. As shown above, Szlam et al. teaches the system of claim 1.

Furthermore, Szlam et al. teaches a host (10) (i.e. a call record database) responsible for providing call records to controller (11) (i.e. associated with the

distribution module). However, this reference does not teach the call record database operable to store the call records and the call attempt results.

Nevertheless, Gill discloses a "System and method for entering call outcome records in a computer database in an outbound predictive dialing application". The invention provides, a method of entering call results (i.e. and the call attempt results) in a computer database (i.e. call record database), said method comprising storing contact information (i.e. operable to store the call records) [see Gill col. 2, line 30].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the system of Szlam et al. such that the host (10) (i.e. call record database) stored call results as well as contact information (i.e. call records), since this would ensure that the status of previous call attempts would be available to agents handling a particular call record for the first time.

Allowable Subject Matter

4. Claims 17, 18, 28, 36, 37 and 44-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 17 and 18, no prior art was found, which disclosed a contingency module responsible for securing call records within a dialing device upon failure of the distribution module.

Regarding claim 28, no prior art was found that teaches the distribution module transfers call records from the first pool to a first queue and call records from the second pool to a second queue where the distribution module transfers call records from the first pool to the first and second queues when the second pool contains no call records.

Regarding claim 44, while Szlam et al. does teach assigning a priority to a campaign (i.e. pool), this reference does not disclose using priority to select which campaigns (i.e. pools) will transfer call records to the queues [see Szlam et al. col. 13, line 40]. Furthermore, no other prior art encountered disclosed the foregoing subject matter.

Regarding claim 36, similarly, no art was found that discloses changing which campaigns (i.e. pools) transfer call records to a particular queue without stopping the campaign.

Regarding claim 45, US patent 5,594,790 to Curreri et al. discloses a "Method for selecting and controlling the automatic dialing of a call record campaign". In the disclosure, Curreri et al. teaches generating multiple campaigns (i.e. pools) according to selection criteria (i.e. selection rules) as well as the allocation of resources (i.e. queues) to service multiple campaigns occurring simultaneously [see Curreri et al. col. 8, line 25; abstract]. However, this reference does not teach selection rules comprise two or more pools simultaneously transferring call records to the queues.

Regarding claim 46, no prior art references were found that disclosed locking the call records to each dialing device, creating a plurality of contingency files specific for each dialing device: and updating the contingency files with call attempt results.

Regarding claim 47, US patent 4,881,261 to Oliphant et al. discloses a "Method for predictive pacing of calls in a calling system". In the disclosure, Oliphant et al. teaches multiple campaigns (i.e. first pool and second pool) assigned to different queues (i.e. transferring call records from a first pool to a first queue; transferring call records from a second pool to a second queue) [see Oliphant et al. col. 7, line30]. However, this reference does not teach transferring call records from the first pool to the first and second queues when the second pool becomes depleted.

Regarding claim 37, similarly, no prior art was found that discloses the pools transferring call records to a first queue with the ability to transfer call records to a second queue if the pools transferring call records to the second queue become depleted.

Response to Arguments

5. Applicant's arguments with respect to claims 1 and 29 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claim 1 of copending Application No. 10/095,513. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention in the instant application is fully disclosed in claim 1 of application 10/095,513 and it is broader than the claimed invention in that application, because it includes all the limitations of claim 1

in the referenced application, except "a goal module...". No new invention, or new improvement is being claimed in the instant application. Applicant is now attempting to claim broadly that which had been previously described in more detail in the claims of application 10/095,513 (In re Van Ornum, 214 USPQ 761 CCPA 1982).

Furthermore, there is no apparent reason why Applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the other application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.A.A.
March 30, 2004


AHMAD MATAR
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TECHNOLOGY CENTER 2600